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Public Health

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ABSTRACT

Public health is considered main factor not only at national level but as well as at international level, so basically this paper contained about the importance of general public and how the law and legislation continuous work towards resolving this issue. For the health of public the public health acts was also enacted that is to deliberate the duty to the every local authorities to safe and Protect the health of people in their area. This act mainly focused on protection on health of each and every person. In this paper we have also emphasized upon how the environment also effect the health of person and how there is negligence on the part of me medical staff. Corruption is the factor which also less the effect of every laws because of corruption the money for the health protection of is not properly used that's why the environment of government hospital is dirty and not safe. At the time of pregnancy many women have lost their life because of lack of. Facilities and safe atmosphere. So this is how the hospital atmosphere is sometimes being dangerous for health of human being. More and more deforestation is badly effect to our environment and the now people are more decline towards rural area and more person shirt to the rural area and is also effect the health because as much person go to rural area there will be there house and motor vehicle so that is more polluted to our environment. This is some of the reason which badly affect the health of public.

This paper is mainly emphasized to the health of public and their related laws and legislations.

I. INTRODUCTION

“Heath is key factor to boost out all the aim and objective of our life”

The word health is having wider sense because the person struggle entire life for the better life and if his health will be always good then he can achieve his goals of enjoying life in better way. Besides all the struggle and effort there is main aim is to give lots of happiness to his family and everyone want to be healthy in their life so because of public good the public laws was introduced. Public health is effected by the nature environment as well as the atmosphere of the society that which kind of human being are there in the society and what was the crime rate in the society so the laws are overall emphasize upon the nature and artificial (man made)

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atmosphere so that the general public can free enjoy there all the rights. This paper is containing- health legislations in India since independence, health of individual, environment effect on human health, constitutional provisions relating to public laws and medical negligence.

II. HEALTH LEGISLATIONS IN INDIA SINCE INDEPENDENCE

Over a period of time, parliaments have enacted legislations in public health. Many states have been enacted the public health act but some of the laws the ineffective because of some of the reasons. Scope of public laws, framework of public laws,

There are some of the laws relating to the health:

- Health act, 1947
- Health act 1953
- Misuse of drugs act, 1977
- Health act 2007
- Child care (amendment) act 2011
- Health service executive act 2014

*Municipal Council Ratlam V. Shri Vardhichand and Ors*²

Municipal council is mainly constituted for fulfill the purpose of preserve the public health and step to be taken for the improvement of public health.

III. THE SCOPE OF PUBLIC HEALTH LAW

The public health law has wider scope because as the time period passing away the crime rate is increased so controlling the crime for safety of general public its necessary to enact these laws. Besides the public health law there are other acts also which doesn't content the name public health act but them indirectly working for public safety. Public health means not only the physical or mental health of human being but actually it's about the free and fearless life so this is being possible through the applicability of the all the laws that's the reason we can said that public health containing major scope.

*Ashok balabhai makwana V. State of Gujarat*³

Being engaged in the unauthorized liquor is considered as criminal and violent activities.

² 29 July, 1980

³ 22 August, 2000

IV. FRAMEWORK FOR PUBLIC HEALTH LAW

Before starting any of the projects we have some framework for that particular project likewise in legal field there is always have planning or framework for making any legislature. The legislature is made according to the need. So the aim is to select the imperative indicators so that they can assess the effectiveness and appropriateness of the public health law, so that we can shortly resolve the public health issues. Because the public health risk may adversely affect the health of human populations and if there is risk to public health then the aim to having healthy India could not reach.

V. HEALTH OF INDIVIDUAL

Health is important factor of everyone life because if there is no healthy life then person could not enjoy golden moment of his life. Healthy life is symbol of development of individual as well as society as a whole. When person not only take care of his own health but also done any activity before thinking about others privacy and health will helpful to maintain healthy environment. Science play vital role in securing the health of human and animal. Health is not only depends upon atmosphere it is majorly depend upon life style of any individual. There is two type of person one who always takes measures like yoga, healthy food. But on the other hand there is some of the person having so comfortable life like – sleeping till late at the morning, no proper diet.

In our Indian constitution there is no particular right of health but a person has right to life under article 21 of the constitution.

VI. ENVIRONMENT EFFECT ON HEALTH

All mankind and other organism of planet directly or indirectly depend upon the environment for fulfill their basic need for example: clean air, water, nutritious food and safe residence to live. For the betterment of their daily they started excessive use of natural resources, it results in environment pollution. More and more use of fertilizers in agriculture field leads to skin cancer and other diseases also. Impure water, air and poor sanitation and hygiene are also responsible for various diseases such as schistosomiasis, cholera, diarrhea, meningitis and gastritis. The development is necessity of each country but there should balance between development and environment protection. There are some of the legislature and laws for securing the health of public by the polluted water and air. These legislatures are mainly focused on sustainable so that we can save our environment. These legislations are as follows:

- The water prevention and control of pollution act, 1974

- The air prevention and control of pollution act, 1981
- Noise pollution regulation and control act, 2000
- Hazardous wastes management and handling rules, 1989
- Coastal zone management regulation, 2010
- The Indian forest act, 1927
- The forest conservation act, 1980
- The remedies or international convention in greenhouse.

With the passage of time human mind is being diverted towards the development but not towards sustainable development. This race of development is very much hazardous to our nature. It gave birth to the poisonous gases such as carbon dioxide, chlorofluorocarbon, nitrogen oxide, sulphur oxide, volatile organic compounds, dioxins and furans etc. carbon dioxide is mainly considered as greenhouse gas. Besides CO₂ there are some other greenhouse gases such as methane, nitrous oxide, fluorinated gases. This greenhouse gases are harmful for environment because it collectively make the layer by which sun's energy absorbed and not revert back, so it will warm earth's atmosphere. So these gases badly effect the environment. The main source of origin of the gas is human activities such as deforestation.

Polluted atmosphere is poison for human health so for the prevention of pollution the above legislations passed. There are Namami Ganga project is also working to clean the water of rivers.

VII. CONSTITUTIONAL PROVISION RELATING TO HEALTH

In our Indian Constitution all the provisions are made by mainly emphasis on all the public needs and safety. There are some of the provisions relating to health are in part PART-IV of the Indian Constitution. These are as follows:

- Article 38: according to this article the state will secure a social order for the promotion of the welfare of the people. Providing proper and reasonable health care is one of the good way to promote welfare.
- Article 39(e): directs to the state to sure the health and strength of child, men and women and child and must children must not abused.
- Article 41: it is duty of the state to provide public assistance in some of the cases for example- unemployment, old age, sickness and disablement etc.
- Article 42: it is says that state will make laws regarding maternity benefits for the health of infant and mother.

- Article 47: it is said that the duty of the state to improve public health, safety of justice, human condition at the work. State's duty to prohibition of consumption of intoxicating drinking and drugs are injurious to health.
- Article 48A: it is duty of state to protect and impose the pollution free environment for good health.

Besides DPSP there are some of the provisions in part 11th and 12th schedules for panchayats and municipalities. This includes water, family welfare, social welfare, sanitation, women and child development.

From our above discussion it is for sure clear that in DPSPs there are most of provisions relating to health. But these provisions are non-justifiable because no person can claim if this provisions will not fulfilled. In article 21 (right to life) right to health is widely explained, right to health is not only described under article 21 in fact it is also explains in part III of the constitution that is article 23(1) which prohibits traffic in human beings. Because before enactment of article 23(1) there was more trafficking of women which leads to the most horrible diseases called AIDS, so preventing this diseases and also for securing the health of every individual this article come into force. Article 24 also adds on for health safety of children this article prevents says that no child below the age of 14 years shall be employed for work in factories and mine. It is effectively related to the welfare of the children because they the unaware from this things.

Paramanand katara v. Union of India⁴:

Supreme Court health that every doctor at government hospital or otherwise has the professional obligation to extend his services with the due expertise for protecting life of a patient.

VIII. MEDICAL NEGLIGENCE AND LIABILITY OF MEDICAL PRACTITIONER

Medical negligence means when doctor or medical practitioners are not fulfilled their duty with proper care. We can take example when any accountant makes any mistake it result in losing of money but in other hand if any doctor make and mistake then there will be losing of life. Medical negligence happened because of improper, unskilled and negligent treatment given to any person who was admitted as a patient. Medical negligence also known as medical malpractices. Sometimes this negligence happened without wrong intension but sometimes its done intentionally and said its negligence.

Liability of hospital in cases of negligence:

⁴ 1989 AIR 2039, 1989 SCR (3) 997

Hospital liability for any negligence can be of two types it can be either direct liability or vicarious liability.

Direct liability is for the lack of safe and suitable environment in hospital.

Vicarious liability is the liability which imposed upon any employer so in case of medical negligence there can be vicarious liability upon any medical practitioner as a medical employer.

The person can file the suit against any of the medical negligence under article 32 of the Indian Constitution.

Jacob Mathew V. State of Punjab⁵

The Supreme Court held that a Doctor could be held liable for his professional negligence of deficiency of service. The Supreme Court said that the more care and caution should be taken while investigation in case of medical negligence against any medical practitioner.

Dr. Laxman Bal Krishna joshi v. dr. trimbak bapu godbole⁶

The Supreme Court said that there is some of the duties for the medical practitioner and if these duties are violated by any medical practitioner then the patients can fill suit against that particular person. These duties are as follows:

1. The duty or obligation that whether this case should undertake or not.
2. Duty of carefully find out the reasonable treatment and therapy for any diseases.

State of Haryana v. Smt Santra⁷

The supreme held that each and every medical practitioner is equally responsible for reasonable care and skill.

“ A Doctor is not just a prefix, it’s a super power” with this stated quote I just want to say that after god people are believe on doctor they think that doctors are their life saver. People always believe that if there is doctor chances of their safe life will increase. But there is also loophole in medical field that’s why there are prescribe the punishment for the medical negligence. Medical negligence is not only the breach of duty but it is also the breach of trust because every person blindly trusts on the medical and science practitioner.

Recently in the state of Karnataka the biggest negligence case happened that is the hand sensitiser given instead of polio drop to the children and 12 children were admitted to the government hospital this report is given by Yavatmal Zilla Parishad CEO Shrikrishna Panchal

⁵ 4 February 2011

⁶ 1969 AIR 128, 1969 SCR (1) 206

⁷ 24 April, 2000

IX. CONCLUSION

Human being is precious creature of god. At the time of creating the entire world our lord gave more preference and mind to the human being so that they can smoothly run whole community with their efforts and kindness. Then the entire world started working and living with the passage of time they feel requirement of the supreme body which can govern them systematically because without and supreme authority it seems somewhat difficult to provide equal protection, liberty and freedom to rich and poor community. So it's duty of supreme authority to protect all the rights of the human being. Public health is also a big issue in front of the legislative body because now-a-days the atmosphere is being worst and worst so the proper measures should be taken not only by the government as well as by the general public. The law never works effectively unless the public will not heartily contribute towards it. Because the legislature, rules and laws are made by government or judiciary are not only for the benefit of their own in fact it is for the whole community's welfare. The way of cure public health issue is directly connected to the environment when the person started to follow all environmental laws then the disease will less because almost diseases are happened due to dirty water, air and soil. So we just have to stop throwing the garbage in the river.

“As safe and healthy environment is eventful for mankind,

Likewise healthy human being will eventful for entire country”.
